

*Stafford Act* refers to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121–5206).

*State* is any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

*Subgrantee* means the government or other legal entity to which a grantee awards a subgrant and which is accountable to the grantee for the use of the funds provided. Subgrantees can be a State agency, local government, private nonprofit organization, or Indian tribal government.

#### § 207.3 Applicability and eligibility.

Only PA and HMGP grantees with PA and HMGP grants awarded pursuant to major disasters and emergencies declared by the President on or after November 13, 2007 are eligible to apply to FEMA for management cost funding under this part.

#### § 207.4 Responsibilities.

(a) *General.* This section identifies key responsibilities of FEMA and grantees in carrying out section 324 of the Stafford Act, 42 U.S.C. 5165b. These responsibilities are unique to the administration of this part and are in addition to common Federal Government requirements of grantees and subgrantees, consistent with OMB circulars and other applicable requirements, such as part 13 of this chapter.

(b) *FEMA.* FEMA is responsible for:

(1) Determining the lock-in amount for management costs in accordance with § 207.5.

(2) Obligating funds for management costs in accordance with § 207.5(b).

(3) Deobligating funds provided for management costs not disbursed in accordance with § 207.8(b).

(4) Reviewing management cost rates not later than 3 years after this rule is in effect and periodically thereafter.

(c) *Grantee.* The grantee must:

(1) Administer management cost funds to ensure that PA and HMGP, as applicable, are properly implemented and closed out in accordance with program timeframes and guidance.

(2) Determine the reasonable amount or percentage of management cost funding to be passed through to subgrantees for contributions to their costs for administering PA and HMGP projects and ensure that it provides such funds to subgrantees.

(3) Address procedures for subgrantee management costs amount or percentage determination, pass through, close-out, and audit in the State administrative plan required in § 206.207(b) of this chapter for PA and § 206.437 of this chapter for HMGP.

#### § 207.5 Determination of management cost funding.

(a) *General.* This section describes how FEMA determines the amount of funds that it will contribute under this part for management costs for PA and/or HMGP for a particular major disaster or emergency.

(b) *Lock-in.* FEMA will determine the amount of funds that it will make available for management costs by a lock-in, which will act as a ceiling for funds available to a grantee, including its subgrantees.

(1) Not earlier than 30 days and not later than 35 days from the date of declaration, FEMA will provide the grantee preliminary lock-in amount(s) for management costs based on the projections at that time of the Federal share for financial assistance for PA and HMGP, as applicable. In accordance with § 207.7(c), FEMA will obligate 25 percent of the estimated lock-in amount(s) to the grantee.

(2) For planning purposes, FEMA will revise the lock-in amount(s) at 6 months after the date of the declaration. In accordance with § 207.7(e), FEMA may obligate interim amount(s) to the grantee.

(3) FEMA will determine the final lock-in amount(s) 12 months after date of declaration or after determination of the final HMGP lock-in ceiling, whichever is later. FEMA will obligate the remainder of the lock-in amount(s) to the grantee in accordance with § 207.7(f).

(4) Rates. (i) For major disaster declarations, FEMA will determine the

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lock-in for PA based on a flat percentage rate of the Federal share of projected eligible program costs for financial assistance pursuant to sections 403, 406, and 407 of the Stafford Act, 42 U.S.C. 5170b, 5172, and 5173, respectively, but not including direct Federal assistance. For major disaster declarations on or after November 13, 2007, the PA rate will be 3.34 percent.

(ii) For major disaster declarations, FEMA will determine the lock-in for HMGP based on a flat percentage rate of the Federal share of projected eligible program costs under section 404 of the Stafford Act, 42 U.S.C. 5170c. For major disaster declarations on or after November 13, 2007, the HMGP rate will be 4.89 percent.

(iii) For emergency declarations, FEMA will determine the lock-in for PA based on a flat percentage rate of the Federal share of projected eligible program costs for financial assistance (sections 502 and 503 of the Stafford Act, 42 U.S.C. 5192 and 5193, respectively), but not including direct Federal assistance. For emergency declarations on or after November 13, 2007 the rate will be 3.90 percent.

(c) The dollar amount provided to a grantee for management cost funds for a single declaration will not exceed 20,000,000, except as described in paragraphs (d) and (e) of this section.

(d) The grantee must justify in writing to the Regional Administrator any requests to change the amount of the lock-in or the cap, extend the time period before lock-in, or request an interim obligation of funding at the time of the 6-month lock-in adjustment. The Regional Administrator will recommend to the Chief Financial Officer whether to approve the extension, change, or interim obligation. Extensions, changes to the lock-in, or interim obligations will not be made without the approval of the Chief Financial Officer.

(e) The Chief Financial Officer may change the amount of the lock-in or the cap, or extend the time before lock-in, if the Chief Financial Officer determines that the projections used to determine the lock-in were inaccurate to such a degree that the change to the lock-in would be material, or for other reasons in his or her discretion that

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may reasonably warrant such changes. The Chief Financial Officer will not make such changes without consultation with the grantee and the Regional Administrator.

### § 207.6 Use of funds.

(a) The grantee or subgrantee must use management cost funds provided under this part in accordance with § 13.22 of this chapter and only for costs related to administration of PA or HMGP, respectively. All charges must be properly documented in accordance with § 207.8(f).

(b) Indirect costs may not be charged directly to a project or reimbursed separately, but rather are considered to be eligible management costs under this part.

(c) Activities and costs that can be directly charged to a project with proper documentation are not eligible for funding under this part.

### § 207.7 Procedures for requesting management cost funding.

(a) *General.* This section describes the procedures to be used by the grantee in requesting management cost funding.

(b) *State Administrative Plan Requirements.* State administrative plans, as required in § 206.207(b) of this chapter for PA and § 206.437 of this chapter for HMGP, must be amended to include procedures for subgrantee management costs amount or percentage determination, pass through, closeout, and audit, as required by § 207.4(c)(3) before management cost funds will be provided under this part.

(c) *Initial Funding Request Submission.* Upon notification of the preliminary lock-in amount(s) for management costs based on the Federal share of the projected eligible program costs for financial assistance at that time for PA and HMGP, as applicable, the grantee must submit its initial management cost funding request to the Regional Administrator. FEMA must receive the initial funding request before it will provide any management cost funds under this part.

(1) For PA management costs, funding requests shall be submitted using a PW.